

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF E. JOSEPH) APPEAL NO. 07-A-2288
AND LINDA GUSTIN from the decision of the Board) FINAL DECISION
of Equalization of Bonner County for tax year 2007.) AND ORDER
)

RESIDENTIAL PROPERTY APPEAL

THIS MATTER was conducted "On the Record" - in writing. Board Members Lyle R. Cobbs , David E. Kinghorn and Linda S. Pike participated in this decision. Appellant E. Joseph and Linda R. Gustin submitted written information for consideration. Respondent Bonner County also submitted written information for consideration . This appeal is taken from a decision of the Bonner County Board of Equalization (BOE) modifying (adjusted at BOE) the protest of the valuation for taxing purposes of property described as Parcel No. RP60N05W237352A.

The issue on appeal is the market value of residential property.

The decision of the Bonner County Board of Equalization is affirmed.

FINDINGS OF FACT

The assessed land value is \$53,750, and the improvements' valuation is \$115,038, totaling \$168,788. Appellants request the land value be reduced to \$27,459, and the improvements' value be reduced to \$106,319, totaling \$133,778. The Assessor requests that the original \$59,084 assessed land value be upheld.

The subject property is 4.998 acres improved with a 1,164 square foot 2 bedroom 2 bathroom one story residence. The ranch style residence is of average construction and quality, and in average to good condition. Subject is located on Highway 57 near Priest Lake, and consists of both level and steep topography and is categorized as a building site.

Appellants asserted there was an unfair increase in the market value of subject, from a

total of \$133,778 in tax year 2006 to \$168,788 in tax year 2007. Taxpayers reported that of subject's 4.998 acres only one acre is usable, the other four acres consist primarily of rock. Appellants alleged there is no land comparable to subject in the area and that the two sales presented by County have more usable land than subject. Appellants had consulted with the County on the market value of subject in the past, and in 2005 the Board of Equalization lowered the assessed value from \$33,988 to \$23,877. Appellants asserted the value of subject should remain in the range of \$1,000 to \$2,000 per acre. Appellant maintained that since 2005 an agreement existed between the Appellants and the County to that effect. Currently, subject is assessed for \$9,820 per acre.

In addition, Taxpayers claimed the value of subject should be lowered because of a nearby property that has several animals and pens located on it. Many animals have died there and been buried onsite, and in the past year more pens have been added. Appellants alleged that the yard of subject property is unusable in the summer due to the smell and the flies. The owner of the property with the animals has been cited several times in the past for animal neglect. Appellant stated that this has been going on for several years and the situation has been brought to the attention of the County before. Taxpayers asserted the County has underestimated the extent of the negative influences on subject's value.

Furthermore, Appellants discussed the condition of the housing market and stated that the cost of building materials are at their lowest in fifteen years. Taxpayers also mentioned the condition of the mortgage market, with homeowners going into foreclosure.

The Assessor reported that there were five (5) improved sales to support the subject assessment, all located within five miles of subject and of similar quality. Two sales, both in very close proximity to subject, were discussed in some detail. One was an improved sale located

adjacent to subject consisting of 9.712 acres with a 1,328 square foot residence. The residence quality is average with a great amount of depreciation. The property sold in June of 2005 for \$155,000 and again in April of 2006 for \$193,000, representing an increase in market value.

The other sale was a vacant lot located less than a quarter mile south of subject. It consisted of 5 acres which sold for \$87,500, or \$17,500 per acre, in December of 2005. Subject is assessed for \$9,820 per acre. Less than 3.590 acres of the sale property are usable because the highway cuts through the site, taking approximately 1.410 acres. The Assessor stated that land on the other side of highway is not usable and, like subject, is steep. The assessed value of all of these properties has been adjusted downward to reflect the negative influence of the highway.

In regards to Appellant's complaint concerning the smell from the animals the County asserted that they have already applied two negative adjustments to the market value of subject, one for the animals and another for the highway, equaling 46%.

County asserted that subject was the recipient of the same trend affecting other properties in the area and that is why the market value rose. The rise in market value is supported by sales.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following.

Idaho is a market value state for property tax purposes. Idaho Code § 63-201(10) provides the requisite definition:

“Market value” means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Property not expressly exempt is valued at its current market value as of January 1 in the given tax year. Recent, proximate sales of comparable property are considered good evidence of value.

“In determining the value of property for taxation purposes the assessor may and should consider cost, location, actual cash sale value and all other factors, known or available to his knowledge, which affect the value of the property assessed, to the end that the property of each taxpayer will bear its just proportion of the burden of taxation.” Abbot v. State Tax Comm'n, 398 P.2d 221, 225, 398 P.2d 221, 225 (1965).

The County offered sales which were compared to subject. The County also applied a negative 46% factor to the subject’s original assessment for external influences Appellant’s claim affect the marketability of subject. The Board of Equalization adjusted the assessed value of subject land further.

Appellants described the subject property as adversely affected by the highway and neighboring property conditions. Sales or further proof of a specific monetary negative influence were not included in the record.

Under the circumstances explained by Appellants’, we agree with both parties a negative adjustment to subject assessed value is warranted. The County did consider the circumstances and did apply a negative adjustment and the BOE further reduced the assessed value. Although additional adjustment in excess of that applied by the County may be warranted, it is simply not supported at this time by Appellants.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, affirmed.

MAILED March 20, 2008